

Medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments which may be used in the treatment of patients but, which do not directly substitute for a malfunctioning part of the body do not qualify as exempt medical appliances subject to the reduced rate. See 86 Ill. Adm. Code 130.310(c)(2) (This is a GIL.)

February 20, 2004

Dear Xxxxx:

This letter is in response to your letter dated June 23, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

AAA is in the business of manufacturing and selling medical appliances and equipment to both hospitals and distributors. Our principal office is in CITY/STATE. We are registered in the State of Illinois as an out of state vendor, since we do not have any business locations in the state.

We would like to request a written opinion from the Illinois Department of Revenue regarding the calculation and collection of sales taxes on the products that we sell to our customers. Specifically, we would like to know if our products meet the requirements stipulated in Title 86, Section 130.310, and therefore qualify for the low rate of 1% as medical appliances.

Enclosed please find product brochures for the products that we sell. We would appreciate a written opinion as to the correct rate of tax that we should be charging for each of our products. If you need further clarification, please contact me.

Thank you for your assistance regarding this matter.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. Illinois imposes a Use Tax on the privilege of using in this State any kind of tangible personal property

that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. The sales tax rate is 6.25%, plus any applicable local taxes. A reduced sales tax rate is applicable, however, to the sale of medical appliances.

The Department's regulation on the reduced tax rate under the Retailers' Occupation Tax Act applicable to food, drugs, medicines and medical appliances can be found at 86 Ill. Adm. Code 130.310. A 1% sales tax rate, plus applicable local taxes, is applied to food for human consumption to be consumed off the premises where sold, and prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medical appliance is an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. Such items may be prescribed by licensed health care professionals for the use by patients, purchased by health care professionals for the use of patients, or purchased directly by individuals. Medical appliances include such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines, including the dialyzer. Corrective medical appliances such as hearing aids, eyeglasses and contact lenses also qualify for the reduced rate. See Section 130.310(c)(2). Additionally, sterile dressings, bandages and gauze qualify for the reduced rate. Diapers and undergarments for incontinent adults are also taxed at the reduced rate. See Section 130.310(c)(3).

Other medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments which may be used in the treatment of patients but, which do not directly substitute for a malfunctioning part of the body do not qualify as exempt medical appliances subject to the reduced rate. See Section 130.310(c)(2).

Insulin, urine testing materials, syringes and needles used in treating diabetes in humans qualify for the reduced rate of tax. No other diagnostic equipment is deemed a medical appliance. See Section 130.310(d).

The medical products described in your letter are subject to the reduced tax rate only if they are considered a medical appliance, or fall within one of the other exemptions described above. Therefore, the product is taxed at the reduced rate of 1%, plus applicable local taxes, if it is an item intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. If your medical product is used in treating patients, but does not directly substitute for a malfunctioning part of the body, then it is not considered a medical appliance and is taxed at the regular Illinois sales tax rate of 6.25%, plus applicable local taxes. There are no other exemptions from the regular sales tax rate for medical related products.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).]

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk